THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION Nos.2308, 2318, 2344 & 2357 of 2005

Dated 14-02-2006

Between:

M/s Sri Venkata Ramana Grains and others.

..... PETITIONERS

AND

The District Collector, Karimnagar District.

.....RESPONDENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION Nos.2308, 2318, 2344 & 2357 of 2005

COMMON ORDER:

Since a common question arose for consideration, all these writ petitions are heard together and decided by this common order.

The petitioners in all these writ petitions claim to be the dealers for sale of kerosene in retail having obtained licences under the Andhra Pradesh Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (hereinafter referred to as 'the order, 1980'). The petitioners in W.P.Nos.2308 and 2357 of 2005 whose licenses were valid up to 31-12-2004 are aggrieved by the inaction on the part of the respondents in renewing their licenses. The petitioners in W.P.No.2344 of 2005 and W.P.No.2318 of 2005 who were holding valid licenses by the date of the filing of the writ petitions are aggrieved by the alleged action of the respondents in not releasing the kerosene in spite of the subsistence of their licences.

It is stated that when the petitioners in W.P.Nos.2308 and 2357 of 2005 filed applications seeking renewal of their licences, the same were rejected by the Mandal Revenue Officer with an endorsement that the Collector had instructed to allot kerosene only to the fair price shop dealers. Insofar as W.P.Nos.2344 and 2318 of 2005 are concerned, though the licences were subsisting the respondents

have allegedly stopped releasing the supply of kerosene to the petitioners. In the circumstances, these writ petitions are filed declaring the action of the respondents as arbitrary and illegal.

On behalf of the respondents, separate counter-affidavits have been filed, in which it is explained that as per the policy of the Government, all the essential commodities including kerosene shall be made available through the fair price shops only and accordingly vide instructions dated 27-01-2001, the Government instructed that the hawkers, who were existing as on 26-04-1994 shall be licenced to do business and imposed a ban on appointment of new hawkers or new kerosene retailers (NRs). In pursuance thereof, a circular was issued vide Government Memo No.1234 dated 15-04-1995 clarifying that there shall not be any fresh licences to hawkers/kerosene hawkers beyond 26-04-1994. The validity of the said circular was considered by this Court in W.P.No.24929 of 1996 and batch and by order dated 04-11-2000, the same was up held. In the case on hand, it is pleaded that except third petitioner in W.P.No.2308 of 2005, second petitioner in W.P.No.2318 of 2005, petitioner in W.P.No.2344 of 2005 and the second petitioner in W.P.No.2357 of 2005, all other petitioners were granted licences subsequent to the cut off date i.e., 26-04-1994. Therefore, the Mandal Revenue Officer had rightly rejected to renew the licences.

Having heard the learned counsel for both the parties and having perused the material on record and particularly keeping in view the policy of the Government not to grant any fresh licences to the hawkers/retail kerosene dealers beyond 26-04-1994, which was considered and upheld by this Court in W.P.NO.24929 of 1996 and batch, I am not inclined to grant the Mandamus as prayed for.

However, the learned counsel for the petitioners points out that under clause - 7 of the order, 1980, even while refusing to renew a licence, the Licensing Authority has to afford an opportunity to the licencee to represent his case and the order of rejection shall be supported by reasons. For proper appreciation, clause - 7 of the

order, 1980 may be extracted as under:

> *" 7.* ***Powers to refuse licence****: -*
>
> *The Licensing Authority, may, after giving the dealer concerned an opportunity to represent his case and for reasons to be recorded in writing, refuse to grant or renew a licence."*

A perusal of the above clause makes it clear that though it is open to the Licensing Authority to refuse renewal of a licence, the same can be done only after recording the reasons in writing and it is also necessary to give the dealer an opportunity to represent his case. As a matter of fact in the cases on hand except an endorsement made by the Mandal Revenue Officer on the applications for renewal made by the petitioners, no reasons were recorded for refusing the renewal, much less there was any notice to the petitioners to represent their cases. Hence, the impugned orders cannot be sustained. It is represented that the petitioners in W.P.No.2344 of 2005 and W.P.No.2318 of 2005 though were holding valid licences by the date of the writ petitions, the period of licence expired during the pendency of these writ petitions and their request for renewal was not considered by the respondents.

Accordingly, the writ petitions are disposed of with a direction to the third respondent to issue notices to all the petitioners calling upon them to make their representations against the proposed action of refusal of renewal of licences and after consideration of their explanations to pass appropriate orders in accordance with law. Such an exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs.

(G. ROHINI, J)

Date:14-02-2006

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